



## UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Monica Riva Talley  
 Sterne Kessler Goldstein & Fox P.L.L.C.  
 1100 New York Ave., N.W., Suite 600  
 Washington, DC 20005-3934

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Kevin Sullivan  
~~9113 Cornwall Dr~~  
 Stockton, Ca 95209

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. 1:19-cv-00715-LO-IDD  
 (to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☒ No

## THE DEFENDANT'S ANSWER TO THE COMPLAINT

## I. The Parties Filing This Answer to the Complaint

Provide the information below for each defendant filing this answer or other response to the allegations in the plaintiff's complaint. Attach additional pages if needed.

Name	<u>Kevin Sullivan</u>
Street Address	<u>9113 Cornwall Dr</u>
City and County	<u>Stockton, San Joaquin</u>
State and Zip Code	<u>Ca 95209</u>
Telephone Number	<u>(816) 838-7665</u>
E-mail Address	<u>Wayofthebros@gmail.com</u>

## II. The Answer and Defenses to the Complaint

## A. Answering the Claims for Relief

On a separate page or pages, write a short and plain statement of the answer to the allegations in the complaint. Number the paragraphs. The answer should correspond to each paragraph in the complaint, with paragraph 1 of the answer corresponding to paragraph 1 of the complaint, etc. For each paragraph in the complaint, state whether: the defendant admits the allegations in that paragraph; denies the allegations; lacks sufficient knowledge to admit or deny the allegations; or admits certain allegations but denies, or lacks sufficient knowledge to admit or deny, the rest.

I deny the allegations stated in paragraph 88. I never claimed what I was selling as "Juul Pods", authentic or from juul. In my listings description I stated that they were to be purchased by individuals above the age of 18 and, or 21.

I deny the allegations stated in paragraph 89. I never stated my product as genuine or to be made by Juul.

I deny the allegations in paragraph 90.

I deny the allegations in paragraph 91. I do not know any of the other defendants that are part of this case.

I admit to the allegations in paragraph 92.

I deny the allegations stated in paragraph 93. I never stated my product as genuine or to be made by Juul, therefore could not be counterfeit.

I deny the allegations stated in paragraph 94. I never offered customer service.

I deny the allegations stated in paragraph 95.

I deny the allegations stated in paragraph 96.

I deny the allegations stated in paragraph 97.

I deny the allegations stated in paragraph 98.

I deny the allegations stated in paragraph 99. The product sold was never advertised or said to be authentic juul. Items were described as j-pods and sold as so.

I deny and admit the allegations stated in paragraph 100. I admit ONLY to offering shipping to the commonwealth of Virginia, nothing more in paragraph 100.

I deny the allegations stated in paragraph 101.

**B. Presenting Defenses to the Claims for Relief**

Write a short and plain statement identifying the defenses to the claims, using one or more of the following alternatives that apply.

1. The court does not have subject-matter jurisdiction over the claims because *(briefly explain why there is no federal-question jurisdiction or diversity-of-citizenship jurisdiction; see the complaint form for more information)*  

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2. The court does not have personal jurisdiction over the defendant because *(briefly explain)*  

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3. The venue where the court is located is improper for this case because *(briefly explain)*  

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4. The defendant was served but the process-the form of the summons-was insufficient because *(briefly explain)*  

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5. The manner of serving the defendant with the summons and complaint was insufficient because *(briefly explain)*  

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6. The complaint fails to state a claim upon which relief can be granted because *(briefly explain why the facts alleged, even if true, are not enough to show the plaintiff's right to recover)*  

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7. Another party *(name)* \_\_\_\_\_ needs to be joined (added) in the case. The reason is *(briefly explain why joining another party is required)*  

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- a. If the basis for subject-matter jurisdiction is diversity of citizenship, state the effect of adding the other party:
- The other party is a citizen of the State of *(name)* \_\_\_\_\_.
- Or is a citizen of *(foreign nation)* \_\_\_\_\_. The amount of damages sought from this other party is *(specify the amount)* \_\_\_\_\_.
- b. If the claim by this other party is based on an alleged violation of a federal constitutional or statutory right, state the basis:
- \_\_\_\_\_

**C. Asserting Affirmative Defenses to the Claims for Relief**

Identify an affirmative defense or avoidance that provides a basis for the defendant to avoid liability for one or more of the plaintiff's claims even if the basis for the claim is met. Any affirmative defense or avoidance must be identified in the answer. Include any of the following that apply, as well as any others that may apply.

The plaintiff's claim for *(specify the claim)*

\_\_\_\_\_

is barred by *(identify one or more of the following that apply)*:

1. Accord and satisfaction *(briefly explain)*
- \_\_\_\_\_

2. Arbitration and award *(briefly explain)*
- \_\_\_\_\_

3. Assumption of risk *(briefly explain)*
- \_\_\_\_\_

4. Contributory or comparative negligence of the plaintiff *(briefly explain)*
- \_\_\_\_\_

5. Duress *(briefly explain)*
- \_\_\_\_\_

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6.     **Estoppel** *(briefly explain)*

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7.     **Failure of consideration** *(briefly explain)*

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8.     **Fraud** *(briefly explain)*

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9.     **Illegality** *(briefly explain)*

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10.    **Injury by fellow employee** *(briefly explain)*

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11.    **Laches (Delay)** *(briefly explain)*

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12.    **License** *(briefly explain)*

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13.    **Payment** *(briefly explain)*

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14.    **Release** *(briefly explain)*

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15.    **Res judicata** *(briefly explain)*

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16. Statute of frauds *(briefly explain)*

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17. Statute of limitations *(briefly explain)*

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18. Waiver *(briefly explain)*

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19. Other *(briefly explain)*

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**D. Asserting Claims Against the Plaintiff (Counterclaim) or Against Another Defendant (Cross-Claim)**

For either a counterclaim against the plaintiff or a cross-claim against another defendant, state briefly the facts showing why the defendant asserting the counterclaim or cross-claim is entitled to the damages or other relief sought. Do not make legal arguments. State how each opposing party was involved and what each did that caused the defendant harm or violated the defendant's rights, including the dates and places of that involvement or conduct. If more than one counterclaim or cross-claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

1. The defendant has the following claim against the plaintiff *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

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2. The defendant has the following claim against one or more of the other defendants *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

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3. State briefly and precisely what damages or other relief the party asserting a counterclaim or cross-claim asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons that are alleged to entitle the party to actual or punitive money damages.

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- a. The defendant asserting the counterclaim or cross-claim against *(specify who the claim is against)* \_\_\_\_\_ alleges that the following injury or damages resulted *(specify)*:
- \_\_\_\_\_

- b. The defendant seeks the following damages or other relief *(specify)*:
- \_\_\_\_\_

### III. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this answer: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the answer otherwise complies with the requirements of Rule 11.

#### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8/31/2019

Signature of Defendant

Printed Name of Defendant



Kevin Sullivan

#### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

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Telephone Number

E-mail Address